

Summary of NOAA and EPA Response to Comments Regarding the Agencies' Proposed Finding that Oregon has Failed to Submit a Fully Approvable Coastal Nonpoint Program

A. General Comments

Proposed Decision

Comment A.1: The majority of commenters supported NOAA and EPA's proposed finding that Oregon has failed to submit a fully approval coastal nonpoint program under Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA). In addition to specific concerns addressed in other sections below, commenters noted that 16 years after receiving conditional approval for its coastal nonpoint program, Oregon still does not have an adequate program in place to control polluted runoff to coastal waters and protect designated used, nor has the state adopted additional management measures for forestry where water quality impairments and degradation of beneficial uses attributable to forestry exist despite implementation of the (g) measures. Commenters also noted that the state failed to follow through on its 2010 commitments to NOAA and EPA—commitments NOAA and EPA used to inform their settlement agreement deadlines with the Northwest Environmental Advocates—to address three remaining conditions on its program related to new development, septic systems, and forestry by March 2013.

While some commenters agreed that Oregon did need to do more to improve water quality, they did not agree with NOAA and EPA's proposed decision because they opposed withholding federal funding under CZMA Section 306 and CWA Section 319, two programs that help to improve water quality and restore habitat. A few commenters noted NOAA and EPA should continue to work with Oregon to improve its water quality programs and that the state just needed additional time to meet the CZARA requirements.

Other commenters opposed NOAA and EPA's proposed finding. Generally, they stated Oregon did have adequate programs in place to meet, or in some cases exceed, the CZARA requirements and control polluted runoff. A few commenters cited improvements in water quality as illustrating the programs Oregon has were working appropriately. More specific comments are discussed in sections below.

Source: 1-C, 2-B, 4-A, 5-A, 8-B, 9-A, 13-A, 14-A, 14-C, 15-A, 16-B, 17-A, 19-B, 22-A, 23-A, 24-A, 25-A, 25-B, 26-B, 28-A, 30-A, 30-B, 30-H, 31-A, 33-A, 33-B, 34-A, 35-A, 36-A, 36-B, 36-C, 37-B, 37-C, 37-D, 40-A, 41-A, 42-A, 42-B, 43-A, 44-A, 46-A, 47-A, 48-B, 49-A, 53-A, 52-A, 54-A, 55-B, 56-C, 57-A, 64-B, 64-D, 66-B, 66-D, 68-B, 68-D

Response A.1:

Impacts of Withholding Funding

Comment A.2: Commenters recognized that withholding funds under Section 306 of the Coastal Zone Management Act (CZMA) and Section 319 of the Clean Water Act (CWA) could negatively impact the state's ability to improve quality and support beneficial programs such as Total Maximum Daily Loads (TMDLs), Oregon Watershed Enhancement Board (OWEB) watershed planning and restoration projects, local land use planning, and the provision of technical assistance to coastal communities to help them address pressing coastal management issues such as coastal hazards, stormwater management, and growth management. A few commenters were against NOAA and EPA withholding funds from these

programs because they felt withholding funding from two important programs for addressing polluted runoff and coastal habitat issues in the state would be counterproductive and would likely not result in the policy and programmatic changes NOAA and EPA seek. Others noted that withholding funding would hurt two state programs and agencies, Oregon's Coastal Management Program in the Department of Land and Conservation and Development and Oregon's Nonpoint Source Management Program in the Department of Environmental Quality, that have very little (if any) influence over the most significant remaining issues (i.e., forestry and agriculture). Some commenters also noted that withholding funds would negatively impact coastal communities and watershed groups that also rely on this funding from NOAA and EPA.

Other commenters supported withholding funds even though they acknowledged it may have some negative impacts initially. They saw withholding funding as the only way to get action in the state to improve water quality and protect designated uses. One commenter also noted that NOAA and EPA's failure to withhold funding sooner allowed Oregon to limp along for over 16 years with inadequate management measures while drinking water and other water quality impairments occurred.

Source: 1-C, 5-A, 8-B, 14-C, 16-B, 17-A, 25-A, 25-B, 25-D, 25-E, 25-F, 33-A, 33-B, 36-A, 36-B, 36-C, 37-B, 37-C, 37-D, 43-A, 48-B, 55-B, 64-B, 66-B, 68-B,

Response A.2:

More Time is Needed

Comment A.3: A few commenters stated NOAA and EPA should give Oregon additional time to develop a fully approvable coastal nonpoint program. They noted that developing a program and addressing the remaining conditions NOAA and EPA placed on the state's program is very challenging and that the state has made significant progress since gaining conditional approval. They also noted that the state is continuing to make additional improvements, such as the rulemaking process to achieve better riparian protection for fish-bearing streams the Oregon Department of Forestry and Board of Forestry is currently undertaking, but that the state needs more time before the new rule is adopted.

Source: 14-D, 33-C

Response A.3:

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Comment [AC1]: Need to check coding on higher level comments. There are many more that should be reflected here.

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